



Memorandum

DATE: September 20, 2022
TO: Transportation Interim Committee
FROM: Dan Lloyd, Energy Bureau Chief
SUBJECT: Timeline & Guidance for National Electric Vehicle Infrastructure (NEVI) Program

Transportation Interim Committee (TIC) staff requested the Montana Department of Environmental Quality (DEQ) Energy Office provide an overview of key guidance from the Federal Highway Administration (FHWA) regarding the NEVI Formula Program in advance of the TIC's September 20 meeting.

The goal of the NEVI Program is to establish a fast-charging network for electric vehicles (EV) in Montana. This network will support long-distance EV travel for state residents and visitors. Below is a description of key guidance and dates since the NEVI Program's creation.

February 10, 2022: FHWA releases guidance on program eligibility and technical requirements

The February 10 guidance provided information on what fast-charging locations funded by NEVI funds should include and included information on the deployment plans states need to submit to FHWA that outline the five-year goals to establish statewide fast-charging networks.

Key guidance included:

- Requirement that each location have four fast-chargers capable of providing 150kW of charger simultaneously to four EVs.
- Locations must be within one travel mile of designated Alternative Fuel Corridors (AFC).
- Charging locations should be located no further than 50 miles from each other.
- Deployment plans need to be submitted to FHWA by August 1, 2022 and should consider:
 - Public outreach and stakeholder input
 - Existing and future conditions of charging infrastructure
 - Priority communities for fast-charging locations

DEQ and the Montana Department of Transportation (MDT) communicated to FHWA the desire for flexibility on certain NEVI requirements including the number of chargers at a location, maximum distance between chargers, and the distance from the AFC. FHWA is considering Montana's request for flexibility on these requirements.

June 22, 2022: FHWA releases Notice of Proposed Rulemaking

To provide additional guidance on minimum standards for the NEVI Program, FHWA announced a notice of proposed rulemaking (NPRM) on June 22, 2022 with a deadline for comments by August 22, 2022. MDT, in consultation with DEQ, submitted comments on the

NPRM. DEQ also consulted on comments submitted by the National Association of State Energy Officials (NASEO).

Comments submitted included:

- Request for flexibility on the number of fast-chargers required at each NEVI-funded location. Comments requested that “States must have the flexibility to suit local conditions in order to facilitate prompt and efficient implementation where scarce dollars are most needed.”
- Request for flexibility on payment rates to use fast-chargers. The proposed rule indicates that prices to use NEVI-funded charging locations should be displayed by \$/kWh. However, Montana law prohibits entities that are not electric utilities from basing payment on the cost of electricity. Charging locations in Montana typically charge by the minute or hour. The State requested flexibility to display the payment rate by something other \$/kWh.
- Clarification on the use of program income. Because the State of Montana will likely not own NEVI-funded fast-charger locations, the State requested clarification on how entities that do own the locations would use income generated by the use of the fast-chargers. The proposed rule indicates that such income should be used for NEVI activities. The State sees no reason why entities should be forced to return income to the State since owners should be allowed to keep revenue they generate.

A final rule from this NPRM process may be released prior to the September 20 meeting of this Committee and DEQ will work to provide updates, should that occur.

July 28, 2022: Montana Electric Vehicle Infrastructure Deployment Plan

On March 10, 2022, DEQ and MDT announced a partnership to develop a Montana Electric Vehicle Infrastructure Deployment Plan (Plan). The Plan highlights the hundreds of Montanans who participated in a public survey or direct stakeholder meetings. DEQ and MDT hosted two webinars during development of the Plan; the first on April 4, 2022 with 145 participants to provide background on the NEVI Program and to hear public comment. The second webinar on July 11, 2022 with 60 participants gave an overview of the draft Plan and allowed for public comment on the draft.

The Plan was submitted to FHWA on July 28, before the August 1 deadline. FHWA announced that state plans would be reviewed before September 30, 2022. DEQ will provide an update to this Committee at the September 20 meeting, should there be an update on the status of the Montana Plan.

August 31, 2022: FHWA announces Request for Information (RFI) on Buy America and Build America waivers

As the EV charging station manufacturing industry increases production to meet growing interest in EVs, FHWA realized that the capacity to deliver chargers for NEVI projects may be limited if Buy America and Build America requirements are strictly implemented. A notice of a proposed waiver with request for information was released by FHWA on August 31, 2022 with comments due by September 30, 2022.

The proposed waiver will gradually increase Buy America and Build America requirements during the course of calendar year 2023 with limited waivers being allowed by the end of 2024.

MDT and DEQ were still evaluating the proposed waiver at the time this memo was written and will provide an update to this Committee at the September 20 meeting should there be an update on the proposed waiver.

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